IN THE HIGH COURT OF PUNJAB & HARYAN AT CHANDIGARH

R.S.A. No. 200 of 2003
Date of decision: January 22,2007

Babu and others V. Sadhu Singh and others

CORAM: HON'BLE MR.JUSTICE VINEY MITTAL

Present: Shri Ashok Singla,Advocate, for the appellants.

Viney Mittal,J.(Oral)

Defendants are in second appeal. They have challenged the judgment and decree passed by the learned first appellate court whereby on an appeal filed by the plaintiff, the judgment and decree of the trial court were set aside and as a result thereof, the suit of the plaintiffs for declaration and for permanent injunction was decreed.

The facts on the record show that Udhey Ram,deceased, had half share in the suit land. The other half was owned by Ghullu father of the plaintiff. The suit of the plaintiff has been decreed by the first appellate court with the following observations:

> " 14) As per the appellate-plaintiff, Udhey Ram died in the year 1965. Ex.P-2 is the copy of report no.257 dated 21.4.67 which mentions that Udhey Ram s/o Bikka has died about two years ago without any issues and without any widow. The entry is dated 21.4.1967 and it shows the death of Udhey Ram two years before that namely some times in the year 1965. Ex.P-8 is the copy of mutation dated 1.4.1980 pertaining to the death of Jamna s/o Bikka. That will proves that Jamna (the predecessor of defendants no.5 to 30) died around the year 1960. As against these entries produced by the appellant-plaintiff showing the time of death of Udhey Ram and Jamna. the defendants brought no other evidence to falsify it or to suggest that Jamna died after Udhey Ram. In aforesaid manner, there is sufficient evidence to suggest that Jamna, predecessor of the

defendants no.5 to 30 died in the year 1960 (vide Ex.P-8) and Udhey Ram died in the year 1965 (Vide Ex.P2). Jamna, pre-deceased his brother Udhey Ram and as such at the time of the death of Udhey Ram, Jamna himself did not inherit any thing and,therefore, his LRs namely the respondents No.5 to 30 will not get any share out of the estate of Udhey Ram. Disputed mutation in their favour was wrong, illegal and liable to set aside. These fact and pieces of evidence seems to have escaped notice of the lower court while deciding the matter."

Nothing has been shown that the findings recorded by the first appellate Court suffer from any infirmity or are contrary to the record.

No question of law, much less any substantial question of law, arises in the present appeal.

Dismissed.

January 22,2007 (Viney Mittal)
sks Judge